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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,313	11/20/2001	J. Michael Anthony Alden	217 P 770	9506

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EXAMINER

COCKS, JOSIAH C

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 12/04/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/989,313

Applicant(s)

ALDEN, J. MICHAEL ANTHONY

Examiner

Josiah C. Cocks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on amendment filed 9/24/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6, 9-12, 14, 15, 18-23 and 40-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 9-12, 14, 15, 18-23 and 40-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Amendment

1. Receipt of applicant's amendment filed 9/24/03 is acknowledged.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 18-23 are rejected under 35 U.S.C. 102(b) as being anticipated by *Glenboski et al.* (US # 5,782,165).

Glenboski et al. discloses in Figures 1-7 a cooking device/grill assembly as described in applicant's claims 18-39 including a cooking chamber (16) and a removable curvilinear central portion (22) received in the cooking chamber and having a cooking surface and flat bottom panel (102) (see Fig. 1B), a mating lid (14), a flange (106) depending from an outer edge and circumferentially around the central portion, a plurality of tab portions (108) that are part of the flange and extend radially outward relative to the central portion and include holes (see Fig. 1B). The examiner considers that these tabs with holes would function as handles. *Glenboski et al.* further teaches that the flange functions to support the central portion (102) (see col. 4, lines 4-21).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4, 6, 9-12, 14, 15, and 47-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Glenboski et al.* (US # 5,782,165) in view of *Hoff* (US # 5,363,977).

Glenboski et al. discloses in Figures 1-7 a cooking device/grill assembly substantially as described in applicant's claims 1-4, 6, 9-12, 14, 15, and 47-49 including a removable curvilinear central portion (22) having a cooking surface and flat bottom panel (102) (see Fig. 1B), a mating lid (14), a flange depending (106) from an outer edge and circumferentially around the central portion, a plurality of tab portions (108) that are part of the flange and extend radially outward relative to the central portion and include holes (see Fig. 1B). The examiner considers that these tabs with holes would function as handles. *Glenboski et al.* further teaches that the flange functions to support the central portion (102) (see col. 4, lines 4-21).

Glenboski et al. possibly does not disclose that the flange is an annular flange, a generally annular top wall,

Hoff teaches a cooking device in the same field of endeavor as *Glenboski et al.* wherein the device of *Hoff* includes a central barbecue portion (36) forming a cooking surface, wherein the central portion is in the form of a circle having an annular top wall (see Fig. 1A) and an

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annular flange for supporting the central barbecue portion (36) on a tubular central housing member (20).

In both *Glenboski et al.* and *Hoff* the shape of the central portion top wall and flange is determined based on the shape of the outer housing on which the central portion is supported. As shown in *Hoff*, it is well known in the art that this shape may be tubular or circular forming an annular flange and that this shape contributes to the device being portable (see col. 1, lines 47-61).

Therefore, in regard to claims 1-4, 6, 9-12, 14, 15, and 47-49, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the central portion of *Glenboski et al.* to include an annular flange and annular top wall such as that taught by *Hoff* for the purpose of matching the shape of the outer housing in order to render the device portable (see col. 1, lines 47-61)

6. Claims 40-46 and 50-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Glenboski et al.* (US # 5,782,165) in view of *Hoff* (US # 5,363,977) as applied to the claims in item 5 above, and further in view of *Chang* (US # 5,213,028).

Glenboski et al. in view of *Hoff* disclose all the limitations of claims 40-46 and 50-60 except for an extendable or collapsible handle attached to the top wall. *Glenboski et al.* does disclose handles (114) attached to the top wall but does not describe these handles as extendable or collapsible.

Chang teaches a multiple purpose cooking utensil system in the same field of endeavor as *Glenboski* wherein the system of *Chang* includes two handles/bails (136 and 138) with hand

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grips (148 and 150) (see Figs. 17 and 18). As shown in Figs. 19-21 these handles are configured to be rotated from a position where they extend above a cooking dish (Fig. 19) to a position where they no longer extend above the cooking dish (Figs. 20 and 21). As far as is proper, the examiner considers that the rotational movement of these handles from a position where they serve as handles for carrying the dish to position that is away from the top wall of the dish and doesn't block the cooking dish opening to be the equivalent of the extendable and collapsible language used in applicant's claims.

Therefore, in regard to claims 40-46 and 50-60, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the handles of *Glenboski et al.* to incorporate the rotating movement of *Chang* for the desirable purpose of allowing the handles to be arranged in a first position to serve as handles for carrying the cooking dish and in a second position away from the top wall of the cooking dish so as to not interfere with the opening of the cooking dish (see *Chang*, col. 7, lines 16 through col. 8, lines 37).

Response to Arguments

7. Applicant's arguments filed 9/24/03 have been fully considered. The argument of page 7 of the response that *Glenboski* does not disclose an annular top wall is persuasive. However, as noted in item 5 above, *Hoff* is considered to show both an annular flange and annular top wall and is now applied to applicant's claims reciting an annular top wall. This Office Action is made non-final for this reason.

Applicant's argument that portion (106) of *Glenboski* is merely a top wall and does not have the required flange is clearly contradicted by the description of portion (106) found on col.

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4, lines 9-21 of *Glenboski* that describe portion 106 as a "lateral extending flange." This argument is not persuasive.

Applicant's argument on page 8 of the response that they tray 22 of *Glenboski* does not include a support member positioned on an inner surface of the cooking chamber is also not persuasive. The examiner considers that the cooking chamber (16) of *Glenboski* includes the pan structure (60). Tray (22) rests on the pan structure (60) by means of flange (106). Therefore, the examiner considers *Glenboski* to show a support member positioned on an inner surface of the cooking chamber as recited in applicant's claims.

Applicant's argument on pages 9-10 that *Glenboski* and *Hoff* are not combinable because the structure and operation of the primary reference would be dramatically changed is also not persuasive. Hoff identifies the tubular/annular shape as desirable for portable cooking systems. The examiner thus considers that a person of ordinary skill in the art would be prompted to modify all necessary components of the outer housing and inner structures of *Glenboski* to incorporate the annular shape as taught by Hoff. This modification would not alter the operation of *Glenboski* but would merely modify the shape of the components to have annular configurations.

Conclusion


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (703) 305-0450. The examiner can normally be reached on weekdays from 7:30 AM to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached at (703) 308-1935. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

jcc
November 30, 2003


JOSIAH COCKS
PATENT EXAMINER
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